

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of John L. and Flora M. Woodward
24818 Half Pone Point Road, Hollywood, Maryland

Case No. VAAP #17-0040

DECISION AND ORDER

Introduction

John L. and Flora M. Woodward (hereinafter "Applicants"), filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 24818 Half Pone Point Road, Hollywood, Maryland (hereinafter the "Property"). The application seeks a variance from Section 71.8.3 of the Comprehensive Zoning Ordinance to disturb the Critical Area Buffer to construct an addition to an existing single-family dwelling.

After due notice, a public hearing was conducted at 6:30 p.m. on July 13, 2017, at the St. Mary's County Governmental Center at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence was received, and the proceedings were recorded electronically.

Legal Standard

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

- a. Special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship.
- b. Strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County.
- c. The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County.
- d. The variance request is not based upon conditions or circumstances that are the result of actions by the applicant.
- e. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program.

- f. The variance is the minimum necessary to achieve a reasonable use of the land or structures.

Findings of Fact

The Property is a grandfathered lot in the Critical Area of St. Mary's County because it was recorded prior to the adoption of the Maryland Critical Area Program on December 1, 1985. The Property fronts the Patuxent River and is constrained by the Critical Area Buffer, which has been measured 100 feet landward from the mean high water line of the river. The Property contains a patio, walkway, and driveway in addition to an existing house for a sum of 5,280 square feet of lot coverage. Of this amount, 585 square feet is within the Buffer, and 4,695 square feet is outside the Buffer. The front of the Property is constrained by the existing septic system and the septic reserve area.

The Applicants plan to construct a 352 square-foot addition to the south side of the existing house which will be no closer to mean high water than the existing house. The Applicants plan to remove 191 square feet of the existing lot coverage. 10 square feet of this amount will be removed from the Buffer. Only 175 square feet of the addition will be in the Buffer, for a net increase of 165 square feet of lot coverage in the Buffer.

Approximately 5,493 square feet of woodland and other vegetation cover the Property. The Applicants do not plan to clear any vegetation.

The existing soil types on the Property are Keyport silt loam, 0-2 percent slopes (KrA) and Keyport silt loam, 2-5 percent slopes (KrB2) according to the Natural Resources Conservation Service, U.S. Department of Agriculture, Web Soil Survey. The hazard of erosion is none to slight for the KrA soils and moderate for the KrB2 soils.

The shoreline of the Property is within Special Flood Hazard Area Zone AE 6 at the shoreline according to Flood Insurance Rate Map (FIRM) panels 182 and 201 F. Zone AE is defined in the County's floodplain management regulations as special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood. Existing and proposed development is outside Zone AE.

The St. Mary's County Health Department approved the site plan on April 18, 2017 and the St. Mary's Soil Conservation District (SCD) approved the site plan on March 22, 2017. The proposed development is exempt from an engineered erosion and sediment control plan and from stormwater management because the disturbance is less than 5,000 square feet.

The Maryland Critical Area Commission provided comments and does not oppose the variance.

Conclusions of Law

The Property is constrained by the Critical Area Buffer (the "Buffer"). A strict interpretation of the Ordinance would prohibit any development in the Critical Area Buffer.

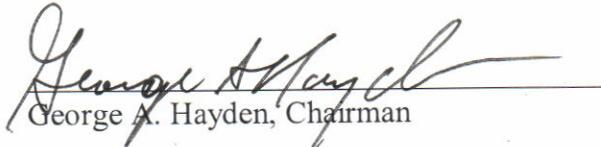
The basis for the variance is the subsequent adoption of the St. Mary's County Critical Area Program on March 27, 1990.

The Maryland Critical Area Commission has determined that potential adverse impacts resulting from development on these properties can be mitigated by planting trees and shrubs. Mitigation is required at a ratio of three to one per square foot of the variance granted. Mitigation is also required for the removal of any trees with a diameter greater than two inches. The required vegetation will improve plant diversity and habitat value for the site and will improve the runoff characteristics for the Property, which will contribute to improved infiltration and reduction of non-point source pollution leaving the site in the future.

ORDER

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for a variance and the objectives of Sections 24.4 and 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, and further finding, for all reasons stated herein, that the Applicants have rebutted the presumption that the specific development activity proposed by the Applicants does not conform with the general purpose and intent of Subtitle 18 of Title 8 of the *Natural Resources Article* of the *Annotated Code of Maryland* and regulations adopted pursuant thereto and the requirements of St. Mary's County Comprehensive Zoning Ordinance enacted pursuant thereto, a variance to disturb the Critical Area Buffer to construct an addition to an existing single-family dwelling is **granted**.

Date: August 10, 2017


George A. Hayden, Chairman

Those voting to grant the variance:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Miedzinski and Mr. Payne

Those voting to deny the variance:

Approved as to form and legal sufficiency


George R. Sparling, County Attorney